



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6, P.O. Box 50625, Dallas, Texas 75250-0625

EXPEDITED SETTLEMENT AGREEMENT

Docket Number: CWA-06-2007-1949, NPDES Permit Number NMR15EJ547

Regional Hearing Clerk
U.S. EPA, Region 6
P.O. Box 371099M
Pittsburgh, PA 15251

R & O Construction Company ("Respondent") is a "person," within the meaning of Section 502(5) of the Clean Water Act ("Act"), 33 U.S.C. § 1362(5), and 40 C.F.R. § 122.2.

Attached is an "Expedited Settlement Offer Deficiencies Form" ("Form"), which is incorporated by reference. By its signature, Complainant ("EPA") finds that Respondent is responsible for the deficiencies specified in the Form.

Complainant finds that Respondent failed to comply with its National Pollutant Discharge Elimination System ("NPDES") storm water permit issued under Section 402 of the Act, 33 U.S.C. § 1342.

EPA finds, and Respondent admits, that Respondent is subject to Section 301(a) of the Act, 33 U.S.C. § 1311, and that EPA has jurisdiction over any "person" who "discharges pollutants" from a "point source" to "waters of the United States." Respondent neither admits nor denies the deficiencies specified in the Form.

EPA is authorized to enter into this Consent Agreement and Final Order ("Agreement") under the authority vested in the Administrator of EPA by Section 309(g)(2)(A) of the Act, 33 U.S.C. § 1319(g)(2)(A), and by 40 C.F.R. § 22.13(b). The parties enter into this Agreement in order to settle the civil violation(s) alleged in this Agreement for a penalty of five thousand one hundred and fifty dollars (\$5,150.00). Respondent consents to the assessment of this penalty, and waives the right to: (1) contest the finding(s) specified in the Form; (2) a hearing pursuant to Section 309(g)(2) of the Act, 33 U.S.C. § 1319(g)(2) and (3) appeal pursuant to Section 309(g)(8), 33 U.S.C. § 1319(g)(8).

Additionally, Respondent certifies, subject to civil and criminal penalties for making a false statement to the United States Government, that any deficiencies identified in the Form have been corrected. Respondent shall submit a written report with this Agreement detailing the specific actions taken to correct the violations cited herein.

Respondent certifies that the Agreement is effective thirty (30) days from the date it is signed by the Regional Judicial Officer. Respondent shall submit a bank, cashiers or certified check, with case name and docket number noted, for the amount specified above payable to the "Treasurer, United States of America," via certified mail, to:

This Agreement settles EPA's civil penalty claims against Respondent for the Clean Water Act violation(s) specified in this Agreement. EPA does not waive its rights to take any enforcement action against Respondent for any other past, present, or future civil or criminal violation of the Act or of any other federal statute or regulation. EPA does not waive its right to issue a compliance order for any uncorrected deficiencies or violation(s) described in the Form. EPA has determined this Agreement to be appropriate.

This Agreement is binding on the parties signing below and effective thirty (30) days from the date it is signed by the Presiding Officer unless a petition to set aside the Order is filed by a commenter pursuant to Section 309(g)(4)(C) of the Act, 33 U.S.C. § 1319(g)(4)(C), and Part 22 or upon filing with the Regional Hearing Clerk.

APPROVED BY EPA:

John Blevins
Director
Compliance Assurance and Enforcement Division
Date: 10/12/07

APPROVED BY RESPONDENT:

Name (print): FRANK MCDONOVICH
Title (print): SR. VICE PRES
Signature: [Signature] Date: 9-18-07

More than 40 days have elapsed since the issuance of public notice pursuant to Section 309(g)(4)(A) of the Act, 33 U.S.C. § 1319(g)(4)(A), and EPA has received no comments concerning this matter.

Having determined that this Agreement is authorized by law, it is so ordered:

[Signature] Date December 19, 2007
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the 9<sup>th</sup> day of January, 2007, the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, U.S. EPA, Region 6 (6RC-D), 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and that a true and correct copy was placed in the United States mail, by certified mail, return receipt requested, addressed to the following:

Mr. Frank McDonough, Vice President  
R & O Construction Company  
933 Wall Avenue  
Ogden, UT 84404  
with a copy, first class postage prepaid, to

Ms. Marcy Leavitt, Chief  
Surface Water Quality Bureau  
New Mexico Environment Department  
P.O. Box 26110  
Santa Fe, NM 87502

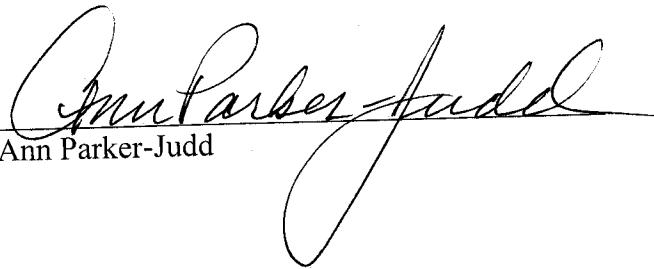
JAN 09 2008

Jackie Samuel

CERTIFICATION

I hereby certify that within ten (10) days from the date of receipt of notice from EPA that the Expedited Settlement Agreement is effective, R & O will send the original check in the amount of \$5,150 with the case name and docket number noted and a copy of the Agreement, via certified mail to:

USEPA, Region 6,  
Docket No.: CWA-06-2007-1949  
P.O. Box 371099M,  
Pittsburg, PA 15251

  
Ann Parker-Judd